

REMARKS

Claims 1, 3-6, 8-12, 14 and 16-22 are now pending in the application. Claims 2, 7, 13 and 15 have been cancelled. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Benz et al. (U.S. Pat. No. 5,645,950, hereinafter "Benz") in view of Scheffler et al. (U.S. Pat. No. 4,859,545, hereinafter "Scheffler"). This rejection is respectfully traversed.

At the outset, Applicants note that claim 1 has been amended to include a metering device for adjusting cathode exhaust gas feedback and the control of cathode supply gas humidity based on exhaust gas feedback and water injection. Claims 8, 14 and 20 include control of feedback gas to adjust humidity of supply gas. Applicants note that the features of claims 1, 8, 14 and 20 are not disclosed or suggested by the combination of Benz and Scheffler. Specifically, the Examiner acknowledges that Benz et al. do not disclose a compressor that draws in a mixture of fresh gas and humidified exhaust gas from the cathode exhaust and compresses the mixture therein. Furthermore, Applicants note that Scheffler discloses a system for cathode exhaust feedback based on oxygen content. Contrary to this, the claims noted above adjust exhaust feedback based upon humidity. As such, the combination of Benz and Scheffler does not properly teach the features of claims 1, 8, 14 and 20.

Applicants further note that the combination of Benz and Scheffler is inappropriate. There is no motivation in either of the references for the proposed combination. As noted above, Scheffler teaches feedback of cathode exhaust based upon oxygen content. Benz teaches water injection for humidification of cathode gas. There is no motivation from either of the references to use the feedback loop of Scheffler in combination with the water injection system of Benz for cathode gas humidification. In order to find an invention obvious in light of a combination of references, there must be something present in the teachings of those references to suggest the claimed invention to one skilled in the art. W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 1551, 220 USPQ 303, 311 (Fed. Cir. 1983) (citing In re Bergel, 292 F.2d 955, 956-57, 130 USPQ 206, 208 (CCPA 1961)). The Examiner appears to be using hindsight to find motivation for the combination. "To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge is to fall victim to the insidious effect of hindsight syndrome wherein that which only the inventor taught is used against its teacher." In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (citing W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983)).

Therefore, Applicants submit that claims 1, 8, 14 and 20 are in condition for allowance. Claims 3-6, 9-12, 16-19 and 21-22 depend from claims 1, 8, 14 and 20, respectively. As such, reconsideration and withdrawal of the rejection of claims 1, 3-6, 8-12, 14 and 16-22 are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: 12-2-05

By: Ryan W. Massey
Ryan W. Massey
Reg. No. 38,543

CORRESPONDENCE ADDRESS:
Cary W. Brooks, Esq.
General Motors Corporation
Legal Staff - Mail Code 482-C23-B21
PO Box 300 - 300 Renaissance Center
Detroit, Michigan 48265-3000
Ph: 313-665-4717
Fax: 313-665-4976

RWM/JMP/slg